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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ALESSI & KOENIG, LLC, a Nevada limited liability company,

Plaintiff,

v.

ALFRED T. DOLAN, JR.; BARBARA ANN DOLAN; FEDERAL NATIONAL MORTGAGE ASSOCIATION; SUMMERLIN NORTH COMMUNITY ASSOCIATION; SATICOY BAY LLC SERIES 10250 SUN DUSK LN; SUNSET MESA COMMUNITY ASSOCIATION; DOE INDIVIDUALS I-X, inclusive; and ROE CORPORATIONS XI-XX, inclusive,

Defendants.

and

FEDERAL HOUSING FINANCE AGENCY, as Conservator for the Federal National Mortgage Association,

Intervenor.

FEDERAL NATIONAL MORTGAGE ASSOCIATION; and FEDERAL HOUSING FINANCE AGENCY, as Conservator for the Federal National Mortgage Association,

Counterclaimants,

Case No.: 2:15-cv-00805-JCM-CWH

**STIPULATION AND ORDER FOR
DISMISSAL OF REMAINING CLAIMS**

1 v.
2 SATICOY BAY LLC SERIES 10250 SUN
3 DUSK LANE; and SUNSET MESA
4 COMMUNITY ASSOCIATION,

5 Counter-defendants.

6 SATICOY BAY LLC SERIES 10250 SUN
7 DUSK LANE,

8 Crossclaimant,

9 v.
10 ALFRED T. DOLAN, JR.; and FEDERAL
11 NATIONAL MORTGAGE ASSOCIATION,

12 Cross-defendants.

13 Plaintiff Alessi & Koenig, LLC (“Alessi”); Defendant/Counter-Defendant Sunset Mesa
14 Community Association (the “HOA”), by and through their counsel of record, HOA Lawyers
15 Group, LLC; Defendant/ Counterclaimant/Cross-Defendant, Federal National Mortgage
16 Association (“Fannie Mae”), by and through its attorneys of record, Dana Jonathon Nitz, Esq.,
17 and Christina V. Miller, Esq., of the law firm Wright, Finlay & Zak, LLP; and
18 Defendant/Counter-Defendant/Crossclaimant Saticoy Bay LLC Series 10250 Sun Dusk Lane
19 (“Saticoy”), by and through its counsel of record Richard J. Vilkin, Esq., of the law firm
20 Geisendorf & Vilkin, PLLC, hereby stipulate and agree as follows:

21 WHEREAS, this matter concerns a homeowner’s association non-judicial foreclosure
22 sale against real property located at 10250 Sun Dusk Lane, Las Vegas, Nevada 89144 (the
23 “Property”).

24 WHEREAS, on September 3, 2014, Alessi on behalf of the HOA conducted a non-
25 judicial foreclosure sale against the Property, selling the Property to Saticoy for \$60,100.00 (the
26 “HOA Sale”).

27 WHEREAS, on February 9, 2015, Alessi filed a Complaint in Interpleader against Fannie
28 Mae, borrowers Alfred T. Dolan and Barbara Ann Dolan (collectively, the “Dolans”), the HOA
and Saticoy regarding excess proceeds from the HOA Sale. ECF No. 1-1.

WHEREAS, on May 6, 2015, Fannie Mae filed its Answer to the Complaint in

1 Interpleader, which was subsequently amended on May 8, 2015 to assert Counterclaims against
2 Saticoy for Quiet Title and Declaratory Relief and against the HOA for Wrongful Foreclosure,
3 Declaratory Relief and Unjust Enrichment. ECF No. 8.

4 WHEREAS, on June 15, 2015, the HOA filed its Answer to Fannie Mae's Counterclaim.
5 ECF No. 10.

6 WHEREAS, on July 22, 2015, pursuant to a Stipulation and Order, the Federal Housing
7 Finance Agency ("FHFA") intervened in the action and filed its Answer and Counterclaims
8 against Saticoy and the HOA for Declaratory Judgment and against Saticoy for Quiet Title. ECF
9 No. 18.

10 WHEREAS, on August 19, 2015, Saticoy filed its Answer to Fannie Mae's Counterclaim
11 and Cross-Claim against Alfred T. Dolan and Fannie Mae for Quiet Title and Declaratory Relief.
12 ECF No. 23.

13 WHEREAS, on September 14, 2015, Fannie Mae filed its Answer to Saticoy's Cross-
14 Claim. ECF No. 24.

15 WHEREAS, on August 19, 2016, Fannie Mae and FHFA filed a Motion for Summary
16 Judgment. ECF No. 38.

17 WHEREAS, on August 26, 2016, Fannie Mae and FHFA filed a Motion to Stay
18 Discovery Pending Resolution of Their Motion for Summary Judgment. ECF No. 39. The
19 Motion to Stay Discovery was granted on October 17, 2016. ECF No. 42.

20 WHEREAS, on January 20, 2017, a Notice of Bankruptcy was filed by Shelley D. Krohn,
21 Chapter 7 Trustee, stating that Alessi filed a voluntary petition for relief under Chapter 7 of the
22 Bankruptcy Court on December 13, 2016, United States Bankruptcy Court for the District of
23 Nevada, Case No. BK-S-16-16593-ABL. ECF No. 45.

24 WHEREAS, on February 27, 2017, the Court granted Fannie Mae's and FHFA's Motion
25 for Summary Judgment (ECF No. 47), thereby resolving the direct claims, counterclaims and
26 cross-claims for Quiet Title and Declaratory Relief.

27 WHEREAS, the only remaining cause of action are: (1) Alessi's direct claim for
28 Interpleader of the excess proceeds; and (2) Fannie Mae's Counterclaims against the HOA for

Wrongful Foreclosure and Unjust Enrichment.

WHEREAS, on April 23, 2018, the Court entered an Order to lift the stay and ordered that the parties shall submit a joint status report or proposed judgment to the court within 30 days of the Order. ECF No. 52.

WHEREFORE, based on the foregoing,

IT IS HEREBY STIPULATED AND AGREED that Alessi's claim for Interpleader shall be dismissed as moot. As part of Alessi's bankruptcy, the excess proceeds for the Property were deposited by the Chapter 7 Trustee with the Bankruptcy Court as part of an adversary action in Interpleader. *See* United States Bankruptcy Court for the District of Nevada, Adv. No. 17-01210-ABL.¹

IT IS HEREBY FURTHER STIPULATED AND AGREED that Fannie Mae hereby dismisses its counterclaims against the HOA for Wrongful Foreclosure and Unjust Enrichment, without prejudice.

IT IS HEREBY FURTHER STIPULATED AND AGREED concerning dismissal of the counterclaims against the HOA for Wrongful Foreclosure and Unjust Enrichment only, and as between Fannie Mae and the HOA only, as follows:

1. The period of time commencing February 9, 2015 (the "Effective Date") and ending on the Termination Date (as that term is defined in paragraph 4 below), shall not be included in determining the applicability of any statute of limitations, laches, or any other defense based on lapse of time in any action or proceeding brought by Fannie Mae against the HOA with respect to the HOA Sale, the Property, and Fannie Mae's Counterclaim, filed on May 6, 2015;

2. Except as is set forth in the preceding paragraph, nothing in this Stipulation shall diminish or affect any defense available to Fannie Mae or the HOA concerning the Counterclaims for Wrongful Foreclosure and Unjust Enrichment as of the date of this Stipulation, and this Stipulation shall not be deemed to revive any claim, remedy, and/or cause of action, legal or equitable, that is or was already barred as of the

¹ The Dolans have never made a formal appearance in this action and, therefore, the Interpleader action may be voluntarily dismissed against them, pursuant to Fed. R. Civ. P. 41(a)(1).

Effective Date, nor shall this Stipulation create any new claim, remedy, and/or cause of action, legal or equitable, against any Party hereto. Nothing in this Stipulation, or in the circumstances that gave rise to this Stipulation shall be construed as an acknowledgement by Fannie Mae or the HOA that any claim, remedy, and/or cause of action, legal or equitable, has or has not been barred, or is about to be barred, by the statute of limitations, laches, or other defense based on the lapse of time;

3. This Stipulation shall not operate as an admission of liability by Fannie Mae or the HOA. Neither this Stipulation nor any action taken pursuant to this Stipulation shall be offered or received in evidence in any action or proceeding as an admission of liability or wrongdoing by Fannie Mae or the HOA;

4. Upon completion of any appeal by Saticoy before the Ninth Circuit Court of Appeals, Fannie Mae may terminate this Stipulation on thirty (30) days written notice to counsel for the HOA. The Termination Date shall be either 1) the first business day following thirty (30) days after Fannie Mae has provided written Notice of Termination pursuant to this paragraph, or 2) the first business day following 60 days after the final order is issued by the Ninth Circuit Court of Appeals, whichever occurs first;

5. This Stipulation comprises the entire agreement of Fannie Mae and the HOA with respect to the tolling of any statute of limitations applicable to the Wrongful Foreclosure and Unjust Enrichment counterclaims. This Stipulation may be modified, amended, or supplemented only by a written instrument signed by all Fannie Mae and the HOA;

6. Except as set forth hereinabove, the Parties reserve any and all rights, privileges, and defenses under applicable law.

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1 IT IS HEREBY FURTHER STIPULATED AND AGREED that each side shall bear its
2 own attorney's fees and costs.

3 IT IS SO STIPULATED.

4 WRIGHT, FINLAY & ZAK, LLP

HOA LAWYERS GROUP, LLC

5 /s/ Christina V. Miller

/s/ Steven T. Loizzi

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14 Association*

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Defendant Sunset Mesa Community
Association*

12 GEISENDORF & VILKIN, PLLC

ALESSI & KOENIG, LLC

13 /s/ Richard J. Vilkin

/s/ Steven T. Loizzi

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20 Sun Dusk Lane*

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Koenig, LLC*

19 IT IS SO ORDERED.

20 DATED May 23, 2018.

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24 UNITED STATES DISTRICT JUDGE
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